

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SAINT PAUL COMMODITIES, LLC,

Plaintiff,

-against-

ORDER

12 CV 3108 (DRH) (AKT)

ISLAND BIOFUEL, LLC,

Defendant.

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HURLEY, Senior District Judge:

After defendant Island Biofuel, LLC's default was noted by the Clerk of the Court pursuant to Federal Rule of Civil Procedure ("Rule") 55(a), plaintiff Saint Paul Commodities, LLC moved for entry of a default judgment under Rule 55(b). On October 5, 2012, this motion was referred to United States Magistrate Judge A. Kathleen Tomlinson to issue a Report and Recommendation as to whether plaintiff has demonstrated that the allegations in the Complaint establish the defendant's liability such that the motion for default should be granted, and if so, to determine the appropriate amount of damages, costs, and/or fees, if any, to be awarded. On June 27, 2013, Judge Tomlinson issue a Report and Recommendation which recommended that a default judgment be entered against defendant for breach of contract, and that plaintiff be awarded (1) lost profits in the amount of \$150,822.04, plus pre-judgment interest from June 21, 2012 until judgment is entered at the per diem rate of \$37.19, and (2) costs in the amount of \$479.00. More than fourteen days have elapsed since service of the Report and Recommendation and no party has filed an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. The Court, therefore, adopts the June 27, 2013 Report and Recommendation of Judge Tomlinson as if set forth herein. Accordingly, the Court hereby directs that default judgment be entered against Island Biofuel, LLC for breach of contract, and that Saint Paul Commodities, LLC be awarded (1) lost profits in the amount of \$150,822.04, plus pre-judgment interest from June 21, 2012 until judgment is entered at the per diem rate of \$37.19, and (2) costs in the amount of \$479.00. Upon entry of judgment, the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
July 25, 2013

_____/s/
Denis R. Hurley
United States District Judge